

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

MORRISON & FOERSTER LLP
JACQUELINE C. CHARLESWORTH (*pro hac vice*)
JCharlesworth@mofo.com
CRAIG B. WHITNEY (CA SBN 217673)
CWhitney@mofo.com
TANIA MAGOON (*pro hac vice*)
TMagoon@mofo.com
1290 Avenue of the Americas
New York, New York 10104
Telephone: 212.468.8000
Facsimile: 212.468.7900

PAUL GOLDSTEIN (CA SBN 79613)
PGoldstein@mofo.com
559 Nathan Abbott Way
Stanford, California 94305-8610
Telephone: 650.723.0313
Facsimile: 650.327.0811

Attorneys for Plaintiffs
DON HENLEY, MIKE CAMPBELL and DANNY
KORTCHMAR

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

DON HENLEY, MIKE CAMPBELL
and DANNY KORTCHMAR,

Plaintiffs,

v.

CHARLES S. DEVORE and
JUSTIN HART,
Defendants.

Case No. SACV09-0481 JVS (RNBx)

**SUPPLEMENTAL DECLARATION
OF DON HENLEY IN
OPPOSITION TO DEFENDANTS'
MOTION FOR SUMMARY
JUDGMENT**

Date: June 1, 2010
Time: 10:00 A.M.
Ctm: Hon. James V. Selna

1 I, Don Henley, pursuant to 28 U.S.C. § 1746, hereby declare:

2 1. This declaration is being submitted in opposition to Defendants'
3 motion for summary judgment. I have personal knowledge of the following facts,
4 and, if called upon as a witness, could and would competently testify about the
5 matters stated herein.

6 2. I make this declaration to point out, and correct, false statements about
7 me in Defendants' papers, including statements made in Defendants' brief in
8 support of summary judgment, and in the sworn declaration of Defendant Charles
9 S. DeVore.

10 3. Defendants state that I have "vocally supported" and am "publicly
11 identified" with Barbara Boxer and Barack Obama. They further state that I am one
12 of a "group of celebrities who are associated in the public eye with Ms. Boxer, Mr.
13 Obama, and other prominent liberal politicians." These statements are untrue. I
14 have never publicly advocated for, or been a "vocal supporter" of, either Barbara
15 Boxer or Barack Obama, whether as a member of a "group" or otherwise.

16 4. Defendants state that I am among a number of unnamed "celebrities"
17 who "fought so hard to get Mr. Obama elected." This is also untrue. Although I
18 contributed money to Mr. Obama, I did not endorse or campaign for Mr. Obama,
19 either individually or with others.

20 5. Defendants assert that I am "publicly identified" with "policies" that
21 are "attack[ed]" in their videos. The "policies" they appear to be referencing (as
22 identified in the "All She Wants to Do Is Tax" video) are carbon trading, "cap-and-
23 trade" regulation, and increased taxation. I have never taken a public position on
24 any of these issues.

25 6. Defendants state that I am "proudly a member" of the "liberal,
26 entertainment elite." Even if such a group could somehow be identified, it is not
27 one of which I am a "member." Defendants have no basis for this nonsensical
28

1 claim, especially in light of my explicit testimony that I do not characterize myself
2 as a “liberal.”

3 7. Defendants characterize “All She Wants to Do Is Dance” as “Plaintiffs’
4 not-so-subtle attack on the U.S. government’s policies” and what “Plaintiffs
5 perceive to be the misconduct of the American government.” I am aware that the
6 author of the song, Danny Kortchmar, has testified to the contrary, and Mike
7 Campbell, to my knowledge, has never offered such an opinion. As for me, I
8 explained at my deposition that I find any such interpretation to be absurd.
9 Defendants’ statements concerning the meaning that my co-Plaintiffs and I
10 supposedly ascribe to this song are, therefore, false.

11 8. Defendants state that, according to media reports, I was booed at a
12 concert in Orange County for making “liberal political statements.” I was not
13 shown any of these media reports at my deposition. In any event, as I testified at
14 my deposition, I do not agree with Defendants’ characterization of this incident.

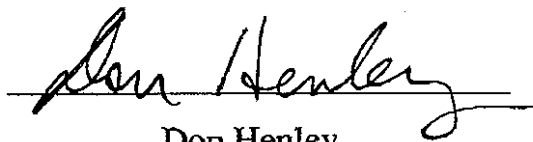
15 9. To underscore the inaccuracy of Defendants’ statements concerning
16 my political views, to my knowledge, the only public statement made by me about
17 a politician that has been identified in this case is one praising Republican Senator
18 John McCain, which was reported in the media.

19 10. Mr. DeVore’s declaration includes a list from the website
20 “OpenSecrets.org” that purports to be a record of my political contributions. The
21 list is incomplete in that it omits a number of my contributions to Republican
22 candidates over the years. For example, it does not include donations I have made
23 to Republican Senator Kay Bailey Hutchison of Texas. True and correct copies of
24 official records on file with the Federal Election Commission reflecting
25 contributions I have made to Ms. Hutchison are attached hereto at Exhibit 1.
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 30th day of April, 2010.


Don Henley